

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

TREXEL, INC.

Plaintiff,

v.

MASTER INDUSTRIES, INC.,

Defendant.

Civil Action No.

05 11599 RCL

RECEIPT # 13942
AMOUNT \$ 350.00
SUMMONS ISSUED 1
LOCAL RULE 4.1 -
WAIVER FORM -
MCF ISSUED -
BY DPTY. CLK. M.R.
DATE 7/29/2005

COMPLAINT AND JURY DEMAND

1. Plaintiff Trexel, Inc. ("Trexel") is a Massachusetts corporation having a primary place of business at 45 Sixth Road, Woburn, MA 01801.

2. Defendant Master Industries, Inc. ("Master") is an Ohio corporation with a principal place of business at 1712 Commerce Drive, Piqua, OH 45356-2694.

3. This is an action for patent infringement arising under 35 U.S.C. §1 et. seq. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a).

4. Trexel develops and commercializes microcellular foaming processes for polymeric materials. Trexel's MuCell® process is used to produce injection molded and extruded products worldwide, which can result in significant cost savings and quality improvements over conventional polymeric material processes. Trexel is the owner of an extensive portfolio of patents and pending patent applications, in the United States, Europe, and other leading markets worldwide, directed to various aspects of microcellular foam technology.

MAGISTRATE JUDGE LTS

5. Upon information and belief, Master provides precision molded products to the automotive, industrial, aerospace, environmental, medical and emergency equipment markets, and has acquired and used an Optifoam[®] system for producing foamed plastic parts.

COUNT I

6. Trexel is the owner by assignment of all right, title and interest in and to United States Patent No. 6,884,823 (the “‘823 Patent”), issued on April 26, 2005.

7. Trexel has the right to sue for infringement of the ‘823 Patent.

8. Master has infringed and is continuing to infringe the ‘823 Patent, by making, selling, offering to sell, and/or using within, or importing into, the United States articles covered by the ‘823 Patent.

9. Master’s infringement of the ‘823 Patent is and has been willful, has caused and will continue to cause Trexel to suffer substantial damages, and has caused and will continue to cause Trexel to suffer irreparable harm for which there is no adequate remedy at law.

COUNT II

10. Trexel is the exclusive licensee of United States Patent No. RE37,932 (the “‘932 Patent”), issued on December 10, 2002.

11. Trexel has the right to sue for infringement of the ‘932 Patent.

12. Master has infringed and is continuing to infringe the ‘932 Patent, by using systems covered by that Patent within the United States.

13. Master's infringement of the '932 Patent is and has been willful, has caused and will continue to cause Trexel to suffer substantial damages, and has caused and will continue to cause Trexel to suffer irreparable harm for which there is no adequate remedy at law.

COUNT III

14. Trexel is the exclusive licensee of United States Patent No. 5,158,986 (the "'986 patent"), issued on October 27, 1992

15. Trexel has the right to sue for infringement of the '986 Patent.

16. Master has infringed and is continuing to infringe the '986 Patent, by making, selling, offering to sell, and/or using within, or importing into, the United States articles covered by that Patent and/or by practicing methods covered by those patents and/or importing articles made by methods covered by that Patent.

17. Master's infringement of the '986 Patent is and has been willful, has caused and will continue to cause Trexel to suffer substantial damages, and has caused and will continue to cause Trexel to suffer irreparable harm for which there is no adequate remedy at law.

For the above reasons, Plaintiff Trexel requests that this Court:

- A. Enter judgment that Master has infringed the '823, '932, and '986 Patents;
- B. Enjoin Master and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for it or on its behalf, or acting in concert or privity with it, from further infringement of the '823, '932, and '986 Patents;

- C. Award Trexel compensatory damages pursuant to 35 U.S.C. § 284;
- D. Award Trexel treble damages for willful infringement pursuant to 35 U.S.C. § 284;
- E. Award Trexel its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- F. Award Trexel costs and such other relief as the Court determines to be warranted.


Jury Demand

THE PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

TREXEL, INC.

July 29, 2005

by: 
Michael A. Albert, BBO #558566
James J. Foster, BBO #553285
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
(617) 646-8000

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) TREXEL, INC. V. MASTER INDUSTRIES, INC.
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
YES ☐ NO ☒
If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
YES ☐ NO ☐
6. Is this case recurred to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME MICHAEL A. ALBERT, ESQ.ADDRESS WOLF, GREENFIELD & SACKS, P.C., 600 ATLANTIC AVE., BOSTON, MA 02210TELEPHONE NO. (617) 646-8000

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

TREXEL, INC.

DEFENDANTS

MASTER INDUSTRIES, INC.

(b) County of Residence of First Listed Plaintiff Middlesex

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael A. Albert, Wolf Greerfield & Sacks, P.C.
600 Atlantic Avenue, Boston, MA 02210 (617) 646-8000

Attorneys (If Known)

05 11599 RCL**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 30 Airplane <input type="checkbox"/> 35 Airplane Product Liability <input type="checkbox"/> 30 Assault, Libel & Slander <input type="checkbox"/> 30 Federal Employers' Liability <input type="checkbox"/> 30 Marine <input type="checkbox"/> 35 Marine Product Liability <input type="checkbox"/> 30 Motor Vehicle <input type="checkbox"/> 35 Motor Vehicle Product Liability <input type="checkbox"/> 30 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 401 Voting <input type="checkbox"/> 402 Employment <input type="checkbox"/> 403 Housing/Accommodations <input type="checkbox"/> 404 Welfare <input type="checkbox"/> 405 Amer. w/Disabilities - Employment <input type="checkbox"/> 406 Amer. w/Disabilities - Other <input type="checkbox"/> 400 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

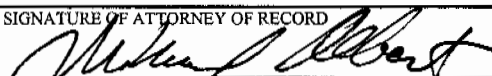
(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

July 29, 2005

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RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____